

AMENDED IN ASSEMBLY MARCH 18, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 661

Introduced by Assembly Member Beth Gaines

*(Coauthors: Assembly Members Conway, Harkey, Logue, Olsen,
Patterson, and Wagner)*

(Coauthors: Senators Gaines, Knight, Nielsen, and Walters)

February 21, 2013

An act to amend ~~Section~~ *Sections* 13405 and 13406 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 661, as amended, Beth Gaines. State government: FISMA.

Existing law, the Financial Integrity and State Manager's Accountability Act of 1983 (FISMA), provides that state agency heads are responsible for the establishment and maintenance of a system or systems of internal accounting and administrative control within their agencies, as specified. Existing law requires that state agency heads covered by the FISMA shall, biennially, conduct an internal review and prepare a report on the adequacy of the agency's systems of internal accounting, administrative control, and monitoring practices. Copies of the reports are required to be submitted to the Legislature, the California State Auditor, the Controller, the Treasurer, the Attorney General, the Governor, the director, and to the State Library where the copies are required to be available for public inspection.

This bill would also require the report to be posted on the agency's ~~web site~~ *Internet Web site* within 5 days of finalization *and would require the report to be signed by the head of the agency under penalty of perjury. By requiring the head of an agency to sign the report under*

penalty of perjury, this bill would expand circumstances under which a person may be convicted of a crime and, thereby, would impose a state-mandated local program.

This bill would provide that the head of an agency that fails to submit the report within 30 days of its deadline shall be suspended without pay until the agency comes into compliance with the reporting requirements. This bill would require the framework for conducting an internal review of an agency's systems of internal accounting and administrative control to include auditing of the agency's assets, liabilities, revenues, and expenditures, as well as reconciliation of accounting and budget documents reported to the Department of Finance and the Office of the Controller.

Existing law requires the head of an internal audit staff of a state agency to investigate any allegation that an employee of the agency provided false or misleading information in connection with the review of the agency's systems of internal accounting and administrative control or in connection with the preparation of the biennial report on the systems of internal accounting, administrative control, and monitoring practices. Existing law requires the head of an internal audit staff or designated internal control person to report in writing to the head of the agency or the division if there is reasonable cause to believe that false or misleading information was provided.

This bill would require the report to also be submitted to the Department of Finance and the Joint Legislative Audit Committee.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 13405 of the Government Code is
- 2 amended to read:
- 3 13405. (a) To ensure that the requirements of this chapter are
- 4 fully complied with, the head of each state agency that the director
- 5 determines is covered by this section shall, on a biennial basis but

1 no later than December 31 of each odd-numbered year, conduct
2 an internal review and prepare a report on the adequacy of the
3 agency's systems of internal accounting, administrative control,
4 and monitoring practices in accordance with the guide prepared
5 by the director pursuant to subdivision (d).

6 (b) The report, including the state agency's response to review
7 recommendations, shall be signed, *under penalty of perjury*, by
8 the head of the agency and addressed to the agency secretary, or
9 the director for agencies without a secretary. Copies of the reports
10 shall be posted on the agency's ~~web site~~ *Internet Web site* within
11 five days of finalization, and submitted to the Legislature, the
12 California State Auditor, the Controller, the Treasurer, the Attorney
13 General, the Governor, the director, and to the State Library where
14 they shall be available for public inspection. *If an agency fails to*
15 *submit the report within 30 days of the report deadline, the head*
16 *of the agency shall be suspended without pay until the agency*
17 *comes into compliance with the reporting requirements.*

18 (c) The report shall identify any material inadequacy or material
19 weakness in an agency's systems of internal accounting and
20 administrative control that prevents the head of the agency from
21 stating that the agency's systems comply with this chapter. No
22 later than 30 days after the report is submitted, the agency shall
23 provide to the director a plan and schedule for correcting the
24 identified inadequacies and weaknesses, which shall be updated
25 every six months until all corrections are completed.

26 (d) The director, in consultation with the State Auditor and the
27 Controller, shall establish, and may modify from time to time as
28 necessary, a system of reporting and a general framework to guide
29 state agencies in conducting internal reviews of their systems of
30 internal accounting and administrative control. *This framework*
31 *shall include auditing of the agency's assets, liabilities, revenues,*
32 *and expenditures, as well as reconciliation of accounting and*
33 *budget documents reported to the Department of Finance and the*
34 *Office of the Controller.*

35 (e) The director, in consultation with the State Auditor and the
36 Controller, shall establish, and may modify from time to time as
37 necessary, a general framework of recommended practices to guide
38 state agencies in conducting active, ongoing monitoring of
39 processes for internal accounting and administrative control.

1 *SEC. 2. Section 13406 of the Government Code is amended to*
2 *read:*

3 13406. (a) The head of the internal audit staff of a state agency
4 ~~or~~, a division, as specified by the director, or, in the event there is
5 no internal audit function, a professional accountant, if available
6 on the staff, designated as the internal control person by the head
7 of the state agency or a division, shall receive and investigate any
8 allegation that an employee of the agency provided false or
9 misleading information in connection with the review of the
10 agency's systems of internal accounting and administrative control
11 or in connection with the preparation of the biennial report on the
12 systems of internal accounting, administrative control, and
13 monitoring practices.

14 (b) If, in connection with any investigation under subdivision
15 (a), the head of the internal audit staff or the designated internal
16 control person determines that there is reasonable cause to believe
17 that false or misleading information was provided, he or she shall
18 report in writing that determination to the head of the agency or
19 the division, *the Department of Finance, and the Joint Legislative*
20 *Audit Committee.*

21 (c) The head of the agency or division shall review any matter
22 referred to him or her under subdivision (b), shall take such
23 disciplinary or corrective action as he or she deems necessary, and
24 shall forward a copy of the report, indicating therein the action
25 taken, to the director within 90 days of the date of the report.

26 *SEC. 3. No reimbursement is required by this act pursuant*
27 *to Section 6 of Article XIII B of the California Constitution because*
28 *the only costs that may be incurred by a local agency or school*
29 *district will be incurred because this act creates a new crime or*
30 *infraction, eliminates a crime or infraction, or changes the penalty*
31 *for a crime or infraction, within the meaning of Section 17556 of*
32 *the Government Code, or changes the definition of a crime within*
33 *the meaning of Section 6 of Article XIII B of the California*
34 *Constitution.*